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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2015 OF 2007

Sameer S. Thale ... Petitioner

Versus

The State of Maharashtra and Ors... Respondents

WITH
WRIT PETITION NO. 3864 OF 2007

Sameera S. Thale ... Petitioner

Versus

The State of Maharashtra and Ors... Respondents

Mr. Bhushan A. Walimbe i/by V.G. Bagade for Petitioners.

Mr. V.P. Malwankar, A.G.P. for Respondents.

CORAM: F.I. REBELLO &
R.M. SAVANT,JJ.
DATED: JUNE 22, 2007

P.C.:

. Rule in both the petitions. By consent heard forthwith.

. Both these petitions are being disposed of by a common order as one Petition is by the brother and the other is by the sister as their caste validity certificates along with their father was disposed of by common order of 15.2.2007.

. At the hearing of these petitions, on behalf of the Petitioners, it is contended that the committee has misdirected itself in law in not considering the documentary evidence. Our attention is invited to various documents as also to the findings of the Committee. After going through various documents,

we find that there is documentary evidence produced. Some of the documents show the Petitioner's relatives as "Son Koli" or Hindu Koli and some documents shows as "Dongar Koli". The entry in so far as the grand father is concerned, shows as "Son Koli". Similarly the entry in respect of the grand fathers' sister also shows as Hindu Koli. On the other hand by the letter dated 5.1.2007, the Petitioners as it appears forwarded some other documents wherein the grand father's sister's caste is shown as "Dongar Koli". Similarly, the document produced by the Applicant and the Applicant's great grand father reveals the caste as "Dongar Koli". Considering the documentary evidence, available on records, it is not possible to record a finding as to whether the Petitioners belong to "Son Koli" or "Dongar Koli". Suffice it to say, that it is not possible to assume that the case of the Petitioners grand father would have been shown as "Son Koli" as far back on 3.1.1947 if in fact it was not so. As noted by the Supreme Court, it is not possible for the parties to forget his caste and tribal origins.

. Be that as it may. As it is not possible to record finding based on the documents on record, the Committee ought to have examined the traits and characteristics, customs and other aspects to find out whether the applicants before it have been able to establish their association with "Dongar Koli"

Scheduled tribe. In paragraph 7 of the order, the tribunal has recorded a finding that the Research Officer associated with the Vigilance Cell of the Scrutiny Committee records that the traits, characteristics, customs, tradition, deities, mother tongue, traditional dances, etc. do not match with that of "Dongar Koli", Scheduled Tribe. The Petitioners were also not aware of the Waghbaras and Gaonbaras, which are peculiar traditions observed in "Dongar Koli", Scheduled Tribe.

. The question is whether on the findings of fact recorded by the committee on tribal traits and characteristics, whether it will be open to this court to interfere in exercise of its extra ordinary jurisdiction. The finding as to the tribal traits and characteristics is a finding of fact. It will not be possible for this court to interfere, unless the Petitioners are able to produce material to show that the material produced by them as to the traits and characteristics has been ignored or irrelevant material was considered. We have examined the grounds challenging the order of the committee. In none of the grounds the Petitioners have challenged the finding as to the tribal traits and characteristics. We are therefore, clearly of the opinion that the impugned order does not suffer from any error of law apparent on the face of the record and in the light of that no interference is called

for. Petitions dismissed. Rule discharged in both the Petitions. No order as to costs.

(R.M. SAVANT,J.) **(F.I.REBELLO, J.)**